

**UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA**

ZAO ODESSKY KONJATSCHNYI ZAWOD,
a Ukrainian corporation,

Plaintiff,

vs.

SIA "BALTMARK INVEST," a Latvian
corporation,

GLOBAL CLOSED JOINT STOCK
COMPANY, a Russian closed joint-stock
company, and

ZAO "GRUPPA PREDPRIYATIY OST," a
Russian closed joint-stock company,

Defendants.

District Judge James C. Cacheris
Magistrate Judge Ivan D. Davis

Civil Action No.: 1:12-cv-515

**MOTION TO TRANSMIT AND SUBMIT RECORD OF TRADEMARK TRIAL AND
APPEAL BOARD PROCEEDINGS TO COURT**

COMES NOW Defendant SIA "Baltmark Invest," ("Baltmark"), by counsel, and respectfully moves this Court for an Order directing that the record of the proceedings before the Trademark Trial and Appeal Board of the United States Patent and Trademark Office, Opposition No. 91161570 and Cancellation No. 92047126, be transmitted to this Court and made part of the record of these proceedings, pursuant to 15 U.S.C. § 1071(b)(3). In support of this motion, Baltmark states as follows:

1. Counts IV and V of Plaintiff's Complaint in this action are requests for reversal/dismissal of the February 8, 2012 decision of the Trademark Trial and Appeal Board

("TTAB") in Opposition No. 91161570 (which was consolidated with Cancellation No. 92047126).

2. In order to perform the *de novo* review of the Board's decision and to consider the evidence relevant thereto, the record before the Board must be transmitted to this Court and made part of the record of this proceeding.

3. 15 U.S.C. § 1071(b)(3) states: "In suits brought hereunder, the record in the United States Patent and Trademark Office shall be admitted on motion of any party, upon such terms and conditions as to costs, expenses, and the further cross-examination of the witnesses as the court imposes, without prejudice to the right of any party to take further testimony. The testimony and exhibits of the record in the United States Patent and Trademark Office, when admitted, shall have the same effect as if originally taken and produced in the suit."

4. Trademark Trial and Appeal Board Manual of Operating Procedure § 904.02 states: "The Board will release the original record for submission (via the Office of the Solicitor) to the court in which the civil action is pending only upon order of the court."

5. The Office of the Solicitor is responsible for assembly and transmission of the record to this Court and it shall do so upon receipt of an Order from this Court sent to the Office of the Solicitor, Mail Stop 8, U.S. Patent and Trademark Office, PO Box 1450, Alexandria, Virginia 22313-1450.

6. Brian M. Gaynor, counsel for Baltmark, conferred via email with Filipp Kofman, counsel for Plaintiff ZAO Odessky Konjatschnyi Zawod, on July 31, 2013, and confirmed that Plaintiff does not oppose this motion.

WHEREFORE, Defendant SIA "Baltmark Invest," respectfully requests that this Court Order that the record in Opposition No. 91161570 and Cancellation No. 92047126 be transmitted to this Court without delay and be made part of the record in these proceedings.

Respectfully submitted,

SIA "Baltmark Invest"
By counsel

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Counsel for SIA "Baltmark Invest"

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 13th day of August 2013, I electronically filed the foregoing using the CM/ECF system, which served a copy upon all counsel of record in this matter.

/s/ Andrew C. Hall

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